

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)	
)	
Opinion requested by)	No. 75-058
Patrick J. Sampson, City Attorney,)	December 3, 1975
City of Pomona)	
)	

BY THE COMMISSION: We have been asked the following questions by Patrick J. Sampson, City Attorney of Pomona, California:

(1) Does Government Code Section 84201 require that each candidate file a campaign statement between the primary and the general election and a final statement after the general election, notwithstanding the fact that he may have won the election at the primary or may have been eliminated at the primary? Alternatively, may we require only a final statement after the primary for those candidates who are not running in the general election?

(2) Does the statement of economic interests filed by an incumbent city council member pursuant to Government Code Section 87203 cover only the period that the Political Reform Act has been effective?

CONCLUSION

(1) When a special, general or runoff election is held less than 60 days following the primary election, candidates for an office contested in the primary election whose names do not appear on the ballot in the special, general or runoff election are not required to file a campaign statement seven days before the special, general or runoff election. They must file campaign statements not later than 33 days before the primary election, seven days before the primary election, and 65 days after the special, general or runoff election.

If the special, general or runoff election for an office is not held, candidates for that office who were required to file for the primary election must file a post-

election campaign statement not later than 65 days after the primary election. 2 Cal. Adm. Code Section 18421.

(2) The anniversary statement of economic interests filed in 1975 by a city council member who was elected to office before the effective date of the Political Reform Act should cover only the period from January 7, 1975, to the officeholder's anniversary date of assuming office. Government Code Section 87203.

ANALYSIS

(1) Government Code Sections 84200, et seq.^{1/} require each candidate and committee supporting or opposing a candidate to file periodic campaign statements containing detailed information about contributions received and expenditures made by the candidate or committee. See Section 84210.

Section 84201 pertains only to elections where a special, general or runoff election is held less than 60 days following the primary election. In such circumstances, candidates and committees supporting or opposing candidates are required to file campaign statements "not later than thirty-three days prior to the primary, not later than seven days prior to the primary, not later than seven days prior to the special, general or runoff election, and not later than sixty-five days after the special, general or runoff election."

Section 84201 does not address the situation in which a candidate participates in the primary election, but does not run in the special, general or runoff election. Similarly, it does not address the situation where a candidate is elected in the primary and no general, special or runoff election is held. Pursuant to its general rule-making authority, the Fair Political Practices Commission has clarified the filing requirements imposed by Section 84201 as they pertain to each of these situations.^{2/}

^{1/}
All statutory references are to the Government Code unless otherwise noted.

^{2/}
Section 83112 provides that "the Commission may adopt, amend and rescind rules and regulations to carry out the purposes and provisions of [the Political Reform Act]"

While recognizing the importance of disclosure,^{3/} the Commission has determined that the public interest is not served by requiring redundant reporting. When a candidate participates in a primary election but does not participate in the special, general or runoff election conducted to fill the office sought by the candidate, no public purpose is served by requiring the candidate to file two campaign statements after his active campaigning has ceased.^{4/} In such situations, the Commission has interpreted Section 84201 to require a single statement filed after the second election, instead of both a statement filed between the primary and second election, and another filed after the second election. 2 Cal. Adm. Code Section 18421(a) provides:

When a special, general or runoff election is held less than 60 days following the primary election, candidates not appearing on the ballot in the second election and committees supporting such candidates are not required to file the campaign statement due seven days prior to the second election, provided that any write-in candidate must file such a campaign statement.

Thus, if a candidate loses in a primary, or for some other reason does not participate in the subsequent special, general or runoff election, the candidate must file a post-election statement no later than 65 days after the special, general or runoff election, but is not required to file a statement due seven days before the second election.

The Commission has also determined that no public interest is served by requiring duplicative disclosure in those elections where a candidate runs in a primary, and the special, general or runoff election for the office sought by the candidate is not held. 2 Cal. Adm. Code Section 18421(b) provides:

^{3/}One of the explicit purposes of the Political Reform Act is that "receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited." Section 81002(a).

^{4/}For those campaigns involving only one election, Sections 84200 and 84203 require a single statement to be filed after the election by candidates and committees supporting or opposing candidates and measures.

When the special, general or runoff election described in paragraph (a) above is not held, candidates and committees supporting such candidates who were required to file for the primary election shall file a post-election campaign statement not later than sixty-five days after the primary election.

If, for example, no special, general or runoff election is held because the candidate won the election in the primary, the candidate must file a post-election statement not later than 65 days after the primary election.

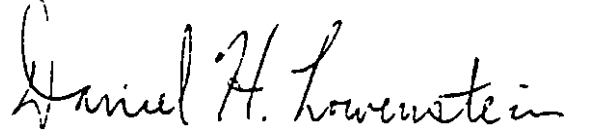
It also should be noted that the word "election," as used in 2 Cal. Adm. Code Section 18421, refers to the election for the specific office sought by a particular candidate. Thus, a candidate who wins an election in the primary will file in accordance with 2 Cal. Adm. Code Section 18421(b), even if a subsequent special, general or runoff election is held for other offices that were contested in the same primary election.

(2) Sections 87200, et seq. require "elected state officers, members of the board of supervisors and chief administrative officers of counties, mayors, city managers, chief administrative officers and members of city councils of cities" to file periodic statements of economic disclosure. Each person who held one of the specified offices on the effective date of the Political Reform Act, January 7, 1975, was required to file such a statement within 30 days after that date.^{5/} Section 87202. Section 87203 requires incumbent officeholders to file statements of economic interests within 30 days after each anniversary of assuming office. These statements must disclose the officeholder's investments, interests in real property and income "during the period since the previous statement filed under this section or Section 87202." When Sections 87202 and 87203 are read in concert, it is clear that the first "anniversary statement" filed by an officeholder who held office when the Act took effect, will cover the period between January 7, 1975, and the anniversary date of assuming office.^{6/}

^{5/} "... Wherever reference is made in this title to the effective date of this title, the date referred to is January 7, 1975." Section 81016.

^{6/} The Commission has adopted regulations making it clear that the period covered by a statement of economic interests begins with the day following the closing date of the period covered by the previous statement, not the date on which the previous statement was actually filed. 2 Cal. Adm. Code Section 18725.

Approved by the Commission on December 3, 1975.
Concurring: Brosnahan, Carpenter, Lowenstein and Miller.
Commissioner Waters was absent.



Daniel H. Lowenstein
Chairman